

OFFICE OF LEGISLATIVE RESEARCH  
PUBLIC ACT SUMMARY



**PA 14-57—sHB 5309**

*Environment Committee*

*Judiciary Committee*

**AN ACT CONCERNING ABANDONED VESSELS**

**SUMMARY:** This act replaces prior law's procedure and establishes a new administrative process for seizing and disposing of abandoned vessels.

The act replaces prior law, which (1) allowed an officer to seize an abandoned vessel and deliver it to a person for storage; (2) permitted that person to sell it if it was unclaimed after 60 days; and (3) specified that the sale proceeds covered storage costs and were then paid to the owner, or the state if unclaimed. The act instead allows certain public or private parties to begin a process to take ownership of an abandoned vessel. Generally transfer of ownership may occur after 45 days if the vessel is not claimed by the owner, a lienholder, or a person with a security interest.

The act makes abandoning a vessel punishable by a fine of between \$300 and \$500, unless the abandonment occurs during, and because of conditions that caused, a declared emergency.

It also deems waste oil, fuel, antifreeze, and other hazardous materials stored on an abandoned vessel to be household hazardous waste for disposal purposes if the materials are (1) incidental to the vessel's operation and maintenance and (2) removed to prepare for the vessel's storage, removal, or destruction.

EFFECTIVE DATE: January 1, 2015

**PRESUMPTION OF ABANDONMENT**

*Vessel*

The act generally expands the circumstances in which a vessel is considered abandoned.

The law prohibits abandoning a vessel on state waters or on someone's property without the property owner's consent. Under prior law, a vessel was presumed abandoned if it was left on (1) state waters, not moored, anchored, or attached to the shore and unattended for more than 24 hours or (2) someone else's property without consent for more than 24 hours.

The act retains these presumptions but gives former tenants who leave behind a vessel on property they rented, leased, or occupied, up to 90 days before it is considered abandoned. The act also presumes a vessel is abandoned if it is:

1. left at a mooring for more than 60 days since the last full payment was received;
2. left at a storage, repair, or other commercial facility for more than one year since the facility received the last full payment;

## OLR PUBLIC ACT SUMMARY

3. found during a declared emergency either in a (a) public right-of-way hindering access to the right-of-way or public utilities or (b) location or condition creating an imminent danger to public safety or the environment; or
4. left on state waters for more than 24 hours and not properly registered.

### *Owner*

Prior law presumed that the last owner of record when the vessel was abandoned was the person who abandoned it or caused its abandonment. The act generally retains this presumption. It specifies that the owner is the person on record with the government agency that registered the vessel, except (1) if the person provides the Department of Energy and Environmental Protection (DEEP) commissioner with sufficient evidence showing a transfer of vessel ownership before abandonment and (2) the last owner of record for any vessel with a Connecticut-issued certificate of title is the owner named on the certificate. Vessels documented with the U.S. Coast Guard under maritime or admiralty law are considered registered with the Coast Guard.

## ABANDONED VESSEL PROCEDURE

### *Prior Law – Provisions Eliminated*

The act eliminates previous procedures regarding abandoned vessels and establishes new ones. It eliminates prior law that:

1. allowed any officer authorized to enforce the state's boating laws to take an abandoned vessel into custody and store it;
2. protected an officer from liability for damage to a vessel when in his or her custody;
3. provided a lien for (a) charges incurred by the officer in taking custody of the vessel and (b) storage charges of the owner or keeper of a marina or other location where the vessel was stored;
4. allowed that owner or keeper to sell the vessel to recoup the storage charges if it was stored for at least 60 days;
5. required notice of the intent to sell to be (a) provided to the vessel owner, if known, and the DEEP, motor vehicles, and transportation commissioners five days before the sale and (b) published three times in a newspaper, starting at least five days before the sale if the owner was unknown; and
6. required paying the sale proceeds, minus the amounts due to the marina owner or keeper and the officer who took the vessel for storage, to the (a) vessel owner if claimed within one year of the sale or (b) state if unclaimed.

### *Who Can Begin the Process*

Under the act, only a party with standing, or the party's designated agent identified on the notification of abandoned vessel (see below), may begin the abandoned vessel process. The act gives the following parties standing:

1. the owner of the property where the abandoned vessel came to rest or to

- which it was attached;
2. a harbormaster, police department, municipality, or agent of the state that agrees to accept or process an abandoned vessel;
  3. an emergency responder, including a responding utility, or person or firm (a) contracted by the government to provide emergency services and (b) responding to a bona fide emergency during or after an emergency declared by the President or governor; and
  4. a licensed motor vehicle dealer authorized by law to tow or transport vehicles or a professional marine salvager, when the dealer or salvager is employed by any of the above parties.

The act allows these parties to recover from the person who abandoned the vessel the expenses they incur because of its abandonment. It generally relieves any person from civil liability for damage to an abandoned vessel if the person acts in good faith and without malice when processing, storing, or moving the vessel according to the act's provisions. (But the act makes vessel lienholders and persons with security interests liable for damage or physical injury when removing abandoned vessels from private property, see below.)

#### *Determining Interested Parties of Abandoned Vessels*

*Vessels Registered in Connecticut.* The act requires the DEEP commissioner to notify the secretary of the state by email when he receives a notice of an abandoned vessel (see below) that is or was registered in Connecticut. He must (1) describe the vessel and (2) identify the owner, if known, as recorded with the Department of Motor Vehicles (DMV).

The secretary of the state must then provide the commissioner with copies she has of any filed (1) financing statement for the vessel that names the owner as the debtor and describes the vessel, by identification number or type, as collateral or that states the collateral is "all assets" or "all property" of the owner or (2) lien against the vessel. The commissioner must provide written notice to all of the secured parties on the financing statements and vessel lienholders of the vessel's abandonment. The notice must (1) describe the consequences of abandonment and (2) provide instructions on how to retrieve the vessel.

Under the act, if an abandoned vessel is documented according to federal maritime or admiralty law, the commissioner must reasonably try to (1) determine if liens, ship mortgages, or security interests exist against the vessel and (2) notify the lienholders, mortgagees, and people with security interests of the vessel's status and location.

*Vessels Registered in Other States.* If an abandoned vessel is registered in another state, the act requires the DEEP commissioner to send email notice to the other state's registering agency and agencies responsible for recording vessel liens and security interests. The commissioner must provide these agencies 15 business days to (1) return information on the vessel's owner and anyone who registered or recorded a vessel lien or security interest or (2) intervene in the abandoned vessel process. If these agencies identify vessel lienholders or people with security interests, the commissioner must make reasonable attempts to notify them.

The act relieves the commissioner of any further obligation to identify or

contact the last owner of record, vessel lienholders, or people with security interests if the other state's registering agency fails to provide the contact information or intervene in the process within 15 business days of receiving the notice. But for federally documented vessels, the commissioner may use information from the documentation to identify the last owner of record.

*Process for Disposing of Abandoned Vessels*

The act establishes a new online procedure to dispose of abandoned vessels. Abandoned vessels with current documentation under federal maritime or admiralty law are subject to the initial notice and labeling procedures, but not the 45-day abandoned vessel period or transfer of ownership provisions. Federal law generally governs these vessels.

*Notice of Abandoned Vessel.* To begin the process, a party with standing must file a "notice of abandoned vessel" with the DEEP commissioner. The notice must be notarized and filed on forms the commissioner prescribes. The commissioner also prescribes the manner of filing, which may be in person, electronically, or by mail or paid delivery service. The filing fee is \$20. But for filings occurring within 45 days after the end of an emergency declared by the governor that results in widespread vessel displacement, no filing fee or notarization is necessary.

The act requires that a notice of abandoned vessel be prepared and submitted to the commissioner for each abandoned vessel. This includes vessels (1) documented with the Coast Guard under federal maritime or admiralty law or (2) relocated to an abandoned vessel holding area by people or agents acting in a relief or emergency capacity.

*Stolen or Missing Vessels.* Under the act, when the DEEP commissioner receives the filing, he must determine if the vessel is reported as stolen or missing. If so, he must notify the police department with which the report was filed and the department must (1) take the vessel into custody or (2) arrange for the return of the vessel to its owner at the expense of the person who abandoned it.

*Internet Notice.* The act requires the DEEP commissioner to post information about the report of the abandoned vessel on a publicly accessible website. The information must be sufficient to identify the vessel and include, if known, at least the (1) vessel's registration number, make, model, length, and color and (2) town and water body nearest to where the vessel was abandoned. It must also include instructions for contacting the commissioner.

The law generally prohibits public agencies from disclosing the residential addresses of certain public employees (e.g., judges, law enforcement officers, and Department of Correction employees). But during a declared emergency and until a vessel abandoned during the emergency is no longer abandoned, the act allows the commissioner to publish any abandoned vessel owner's name and town of record as obtained from vessel registration records.

*Certified Letter.* The DEEP commissioner must send a certified letter to the person who abandoned the vessel, who is presumed to be the owner, if the person can be identified. In the letter, he must (1) identify the vessel, (2) explain the consequences of abandonment, and (3) provide instructions for retrieving the

vessel.

The act waives this certified mail requirement if the commissioner establishes contact with the person by email or some other communication method he finds suitable.

*Label.* The act requires the DEEP commissioner to provide the party with standing with a water resistant adhesive label to be immediately affixed to the vessel. The label must (1) advise that the vessel is being processed according to the act's abandoned vessel procedure and (2) provide instructions for contacting the commissioner to get more information or intervene. It must be placed in a prominent location visible to an approaching person.

*45-Day Abandoned Vessel Period.* Under the act, a 45-day abandoned vessel period begins on the date of the first attempt to deliver the certified letter to the person who abandoned the vessel. For unregistered vessels, the period begins when the DEEP commissioner posts information about the vessel on the abandoned vessel website.

The act allows the commissioner to suspend the period for up to six months for just cause if he states on the website the (1) reason for the suspension and (2) elements needed to resume the 45-day period.

*Owners Reclaiming Vessels.* The act gives the person who abandoned the vessel until the last day of the abandoned vessel period to take it from the party with standing. But it allows the person who abandoned it to ask for the period to be suspended if there is just cause and he or she contacts the DEEP commissioner. The act makes the person who abandoned the vessel liable for any property damage caused by removing it.

If the person fails to remove it, the DEEP commissioner, in conjunction with the DMV commissioner, must (1) cancel the vessel's registration and (2) issue a notice of assumed ownership to the party with standing (see below).

*Liens and Security Interests.* Under the act, any party with a vessel lien that is filed with the secretary of the state must seek a writ of attachment from the Superior Court or the lien is discharged. Similarly, anyone with a security interest against an abandoned vessel must take action as allowed by the law on rights after default, or the interest is discharged. These must be (1) done at the party's or person's expense and (2) started before DEEP issues a notice of assumed ownership to the party or person (but the DEEP commissioner issues the notice to the party with standing, see below). Under the act, the DEEP commissioner must file a notice of discharge of any lien or security interest with the secretary of the state. The notice must (1) identify the vessel lien or security interest by file number, (2) describe the vessel by identification number or type, and (3) state that a notice of assumed ownership was issued to the party with standing.

Similarly, the act allows vessel lienholders and people with security interests on abandoned vessels filed with a federal agency to seek a writ from Superior Court, as described above, or under any other applicable state or federal law.

Under the act, vessel lienholders who do not file their liens and those that file them in another state are unable to seek the writ. But the act allows lienholders and people with security interests, whether or not they have the writ, to request a suspension of the abandoned vessel procedures for the removal, transport, or

storage of the vessel.

Under the act, vessel lienholders and people with security interests who take custody of abandoned vessels by entering on the properties of parties with standing are liable to those parties for any damage or physical injury caused by the entry or the taking of the vessel.

An abandoned vessel in the custody of a vessel lienholder, person with a security interest, or their agents, is no longer abandoned and must be processed according to existing law regarding vessel liens.

*Notice of Assumed Ownership.* The act requires the DEEP commissioner to issue a “notice of assumed ownership” to the party with standing on the day after the abandoned vessel period ends if the person who abandoned the vessel or any vessel lienholder or person with a security interest fails to (1) contact him or (2) remove the vessel. The notice must be sent by certified mail with a copy sent by email to DMV.

For abandoned vessels subject to vessel liens or security interests filed with the secretary of the state, the DEEP commissioner must file a notice of discharge with the secretary, as described above. The notice of assumed ownership (1) terminates all liens and security interests against the vessel and (2) satisfies the law’s requirements for notices of lien removal.

Once the notice of assumed ownership is issued, the party with standing is considered the vessel’s owner and the original notice document is prima facie evidence of ownership. The act also makes the notice prima facie evidence of a transfer of ownership, by law, from a titleholder to the party with standing. The notice is deemed sufficient to establish the ownership interest or right to acquire the interest.

The act requires the DMV commissioner to then cancel the vessel’s existing registration and note the ownership transfer to the party with standing in the vessel’s registration record, if it exists and is accessible. For vessels registered by some other agency, the DMV commissioner must electronically notify the agency of the ownership transfer.

OLR Tracking: KLM:JO:PF:am